

W. Scott Mitchell
Robert L. Sterup
Kyle A. Gray
Holland & Hart LLP
1500 First Interstate Center
401 North 31st Street
P. O. Box 639
Billings, MT 59103-0639
Phone: (406) 252-2166
Fax: (406) 252-1669

FILED

FEB - 4 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

ATTORNEYS FOR DEFENDANT/APPELLANT

IN THE SUPREME COURT OF THE
STATE OF MONTANA

DEBBIE PATCH, as Personal
Representative of the Estate of
BRANDON PATCH, Deceased, and
Debbie and Duane Patch,

Plaintiffs/Appellees,

vs.

HILLERICH & BRADSBY CO., d/b/a
LOUISVILLE,

Defendant/Appellant.

DA 10-0051

Supreme Court Cause No. _____

NOTICE OF APPEAL

NOTICE is hereby given that Defendant Hillerich & Bradsby Co., d/b/a Louisville Slugger, the Appellant above-named and who is a defendant in that cause of action filed in the First Judicial District, in and for the County of Lewis & Clark, as Cause No. CDV 2006-397, hereby appeals to the Supreme Court of the State of Montana from the Memorandum and Order on Post-Trial Motion for Judgment as a Matter of Law dated January 8, 2010; and from the final judgment entered in such

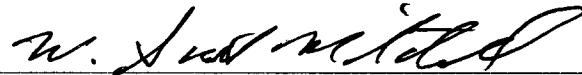
action on the 9th day of November, 2009, and from all previous oral and written orders and rulings excepted or objected to, including but not limited to:

1. Order on Plaintiffs' Motions in Limine dated March 31, 2008; and
2. Memorandum and Order on Defendants' Motion for Summary Judgment dated March 6, 2008.

THE APPELLANT FURTHER CERTIFIES:

1. That this appeal is subject to the mediation process required by M.R. App. P. 7. The money judgment being sought is not less than \$5,000.
2. That this appeal is not an appeal from an order certified as final under M.R. Civ. P. 54(b).
3. That this appeal does not involve any challenges to the constitutionality of any act of the Montana Legislature.
4. That all available transcripts of the proceeding in this cause have already been ordered from, and prepared by, the court reporter for purposes of the post-trial motion, and those transcripts have been filed with the district court.
5. That included herewith is the filing fee prescribed by statute.

DATED this 3rd day of February, 2010.



W. Scott Mitchell
Robert L. Sterup
Kyle A. Gray
Holland & Hart LLP
1500 First Interstate Center
401 North 31st Street
P. O. Box 639
Billings, MT 59103-0639

Attorneys for Defendant/Appellant
Hillerich & Bradsby Co.

CERTIFICATE OF SERVICE

I hereby certify that I have served a true and accurate copy of the foregoing NOTICE OF APPEAL with the Clerk of the Montana Supreme Court; and that I have served true and accurate copies of the foregoing NOTICE OF APPEAL upon the Clerk of the District Court, each attorney of record, and each party not represented by an attorney in the above-referenced District Court action, as follows:

District Court Clerk, 1st Judicial Dist.	<input checked="" type="checkbox"/> U.S. Mail
Lewis & Clark County	<input type="checkbox"/> Overnight Mail
228 Broadway	<input type="checkbox"/> Hand Delivery
Helena, MT 59601	<input type="checkbox"/> Facsimile

Curt Drake	
Drake Law Firm, P.C.	<input checked="" type="checkbox"/> U.S. Mail
111 North Last Chance Gulch	<input type="checkbox"/> Overnight Mail
Suite 3J, Arcade Building	<input type="checkbox"/> Hand Delivery
P.O. Box 1181	<input type="checkbox"/> Facsimile
Helena, MT 59624-1181	

Joe E. White, Jr.	
White & Weddle, P.C.	<input checked="" type="checkbox"/> U.S. Mail
5532 North Western	<input type="checkbox"/> Overnight Mail
Oklahoma City, OK 73118	<input type="checkbox"/> Hand Delivery
	<input type="checkbox"/> Facsimile

Kelly A. George	
James A. Scimeca	<input checked="" type="checkbox"/> U.S. Mail
Burch & George, P.C.	<input type="checkbox"/> Overnight Mail
204 North Robinson, Suite 1500	<input type="checkbox"/> Hand Delivery
Oklahoma City, OK 73102	<input type="checkbox"/> Facsimile

Joe Seifert	
Keller, Reynolds, Drake, Johnson & Gillespie, P.C.	<input checked="" type="checkbox"/> U.S. Mail
Guardian Building 3rd Floor	<input type="checkbox"/> Overnight Mail
50 S. Last Chance Gulch, P.O. Box 598	<input type="checkbox"/> Hand Delivery
Helena, MT 59624	<input type="checkbox"/> Facsimile

Dated this 3rd day of February, 2009.